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QW

Appl. No. : 10/081,412
Applicant : Jerry W. Stewart et al.
Filed : Feb. 22, 2002
TC/A.U. : 3635
Examiner : Chi Q Nguyen
Docket No. : 125438-1003

Confirmation No. 2491

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(37 CFR 1.8a)

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Anne Ziegler

Anne Ziegler
(Signature of person mailing paper)

Date: *March 3, 2004*

**RENEWED PETITION TO WITHDRAW THE HOLDING OF
ABANDONMENT UNDER 37 C.F.R. 1.81**

Sir:

In response to the Decision on Petition to Withdraw the Holding of Abandonment of the above-identified application, which Decision is dated February 23, 2004, Applicants request reconsideration of the Decision.

The Decision on Petition to Withdraw the Holding of Abandonment states that any petition to withdraw the holding of abandonment based on a certificate of transmission by facsimile must include (1) a copy of the original response bearing a signed certificate of transmission which includes the date of signing and (2) a statement under 37 C.F.R. 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the certificate of transmission.

However, a response to the Office Action dated June 13, 2003 for the above-identified application, was mailed with Certificates of Mailing under 37 C.F.R. 1.8a and was timely mailed on December 15, 2003. Another copy of the original response is enclosed herewith. The copy of the response includes a request for a three month extension of time mailed

Appl. No. 10/081,412
Renewed Petition to Withdraw Holding of Abandonment

with a Certificate of Mailing Under 37 C.F.R. 1.8a executed on December 15, 2003, a transmittal letter mailed with a Certificate of Mailing Under 37 C.F.R. 1.8a executed on December 15, 2003 and covering a Terminal Disclaimer, and an Amendment A in response to the Office Action dated June 13, 2003. The Amendment A also bears a Certificate of Mailing Under 37 C.F.R. 1.8a duly executed on December 15, 2003. The copy of the response enclosed herewith shows the Certificates of Mailing on the documents as indicated above, respectively.

Also enclosed is a Statement Under 37 C.F.R. 1.8(b)(3) by Anne Ziegler, the person signing the Certificates of Mailing Under 37 C.F.R. 1.8a on December 15, 2003.

The Office states that no response to the Office Action of June 13, 2003 was received. However, Applicants have previously submitted, and submit herewith, a copy of a postcard receipt showing that the Office received the response including an Amendment Transmittal, an Amendment A, a Request for Three Month Extension of Time and a Terminal Disclaimer on December 18, 2003.

Still further, Applicants submit herewith a copy of a statement dated 12/31/03 for the Deposit Account of Gardere Wynne Sewell LLP (shown as Gardere & Wynne) indicating that on December 22, 2003, such Deposit Account was charged for application Serial No. 10/081,412 an extra independent claims fee of \$43.00 (Fee Code 2201), an excess claims fee of \$81.00 (Fee Code 2202), an Extension of Time fee of \$475.00 for a three month extension of time (Fee Code 2253), and a Terminal Disclaimer fee of \$55.00 (Fee Code 2814). Such fees were due in connection with the response.

It is respectfully submitted that the Office received a timely filed and proper response to the Office Action of June 13, 2003, as evidenced by the postcard receipt date stamped December 18, 2003, and by charges to a deposit account for the fees due in connection with the response.



Appl. No. 10/081,412

Renewed Petition to Withdraw Holding of Abandonment

Applicants respectfully request that the holding of abandonment of the above-identified application be withdrawn and that a favorable action be issued pursuant to the response which was timely mailed with executed Certificates of Mailing dated December 15, 2003.

Please charge any petition fees due for this Renewed Petition and credit any overpayments to Deposit Account 07-0153.

Respectfully submitted,

Date: March 3, 2004

Michael E. Martin
Michael E. Martin
Registration No. 24,821
Agent for Applicants

Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
Phone (214) 999-4052
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Sir:

<p align="center">CERTIFICATE OF MAILING (37 CFR 1.8a)</p> <p>I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail and in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.</p> <p align="center">_____ Anne Ziegler</p> <p align="center"><i>Anne Ziegler</i> (Signature of person mailing paper)</p> <p>Date: <u>March 3, 2004</u></p>

STATEMENT UNDER 37 C.F.R. 1.8(b) (3)

I hereby attest on a personal knowledge basis that, with regard to the above-identified patent application, I signed Certificates of Mailing Under 37 C.F.R. 1.8a on December 15, 2003 for a Request for Three Month Extension of Time, a transmittal letter for an Amendment and a Terminal Disclaimer, and an Amendment A and, on that date, placed all such documents in an envelope designated to be mailed as First Class Mail and addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

I placed the above-identified correspondence in a mail outbox of the offices of the firm of Gardere Wynne Sewell LLP before 5:00 PM CST on December 15, 2003.

The reasonable basis to expect that the correspondence would be mailed on December 15, 2003 is that I have previously been informed that it is the procedure of the mail handling system of Gardere Wynne Sewell LLP to make a final mail pickup from the outboxes at 5:00 PM and that mail picked up from the outboxes at 5:00 PM is deposited with the United States Postal



Service with sufficient postage as First Class Mail (unless otherwise designated) on the date of pickup from the outboxes.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date: March 3, 2004

Anne Ziegler
Anne Ziegler

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MONTHLY STATEMENT OF DEPOSIT ACCOUNT

Under Secretary of Commerce for Intellectual Property and
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STEPHANIE BELL
1601 ELM STREET
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Page	1

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DAY	YR.							
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3	03		57	10650658		8021	40.00	10425.00
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3	03		322	PCT/US03/37753	126928-2000	1602	250.00	9835.00
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17	03		1223	78110192	126001.3000	7004	600.00	11028.00
18	03		70	09328921	066287.0113	1253	860.00	10168.00
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18	03		563	78107755	125990.3000	7004	450.00	9048.00
18	03		620	78107755	125990-3000	7003	300.00	8748.00
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*** O.D. INDICATES OVERDRAWN

Attorney(s): KRG/MEM/EAZ

Client/Matter#: 125438-1003

Inventor(s): Jerry W. Stewart et al.

Title: Multi-Story Multiple Dwelling Complex With Semi-Private Garage to Apartment Entry
and Exit Pathways

Today's Date: 12/15/03

Check Amount:

Serial No./Patent No.: 10/081,412

U.S. Filing/Grant Date.: 2/22/02

Due Date: 12/15/03

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Amendment Transmittal

Amendment A

Request for Three Month Extension of Time

Terminal Disclaimer

GARDERE WYNNE SEWELL LLP
DEC 22 2003



DOCKETED



Appl. No. : 10/081,412
Applicant : Jerry W. Stewart et al.
Filed : Feb. 22, 2002
TC/A.U. : 3635
Examiner : Chi Q Nguyen
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Anne Ziegler

Anne Ziegler

(Signature of person mailing paper)

Date:

Dec. 15, 2003

REQUEST FOR THREE MONTH EXTENSION OF TIME

Applicant respectfully requests a three month extension of time to respond to the Office Action dated June 13, 2003. An amendment is filed concurrently herewith.

Please charge the extension fee (\$475.00), any other fees due and credit any overpayments to Deposit Account No. 07-0153. A duplicate copy of this sheet is enclosed.

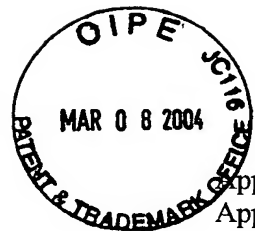
Respectfully submitted,

Date: *Dec. 15, 2003*

Michael E. Martin

Michael E. Martin
Registration No. 24,821
Agent for Applicants

Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
Phone (214) 999-4052
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Appl. No. : 10/081,412
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Anne Ziegler

Anne Ziegler
(Signature of person mailing paper)

Date:

Dec. 15, 2003

Transmitted herewith is an Amendment and a Terminal Disclaimer for filing in the above-identified patent application.

The extra claims fee has been calculated as shown below:

	Claims Remaining After <u>Amendment</u>		Highest No. <u>Previously Paid</u>		<u>Present Extra</u>	Small Entity <u>Rate</u>	Additional <u>Fee</u>
Total	45	-	36	=	9	\$ 9.00	\$81.00
Claims							
Indep.	4	-	3	=	1	\$43.00	\$43.00
Claims							
						TOTAL	\$124.00

The Commissioner for Patents is hereby authorized to charge the disclaimer fee (\$55), the extra claims fee and any fee deficiency or to credit any fee overpayment relating to this matter to Deposit Account No. 07-0153. A duplicate copy of this sheet is enclosed.

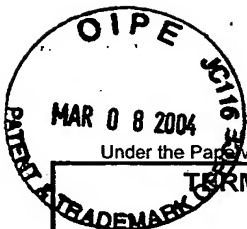
Respectfully submitted,

Date: *Dec. 15, 2003*

Michael E. Martin

Michael E. Martin
Registration No. 24.821
Agent for Applicants

Gardere Wynne Sewell LLP
1601 Elm Street, Suite 3000
Dallas, Texas 75201-4761
(214) 999-4052
(214) 999-3052 (Fax)

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**

Docket Number (Optional)

125438-1003

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In re Application of: Jerry W. Stewart et al.

Application No.: 10/081,412

Filed: Feb. 22, 2002

For: Multi-Story Multiple Dwelling Complex With Semi-Private Garage to Apartment Entry and Exit Pathway

The owner*, S&T Joint Venture, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,405,496. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record.

Michael E. Martin 12/15/03
Signature Date

Michael E. Martin, Reg. No. 24,821

Typed or printed name

214-999-4052

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included. (**authorization to charge Dep. Acct.**)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Appl. No. : 10/081,412 Confirmation No. 2491
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Anne Ziegler

Anne Ziegler
(Signature of person mailing paper)

Date:

Dec. 15, 2003

AMENDMENT A

Sir:

In response to the Office Action dated June 13, 2003, please amend the above-identified application as follows:

Amendments to the Claims begin on page 2 of this paper.

Remarks/Arguments begin on page 13 of this paper.

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Amendments To The Claims:

This listing of claims will replace all prior versions and listings of claims in this application.

Listing of Claims:

1. (original) A multi-story, multiple dwelling unit building complex comprising:

at least one vehicle storage level comprising a plurality of at least one of vehicle parking spaces and private vehicle garages;

at least one elevator arranged to provide pedestrian access between said elevator and said storage level;

plural dwelling unit levels vertically spaced from each other and from said storage level and including at least one dwelling unit thereon, respectively, said elevator extending to at least selected ones of said dwelling unit levels; and

each of said dwelling units having direct access to an elevator for providing a pathway between each of said dwelling units and said storage level whereby occupants of each of said dwelling units may have access to one of a vehicle parking space and a private garage associated with respective ones of said dwelling units by way of a pathway from each dwelling unit to each of said one of parking spaces and garages via said elevator.

2. (original) The building complex set forth in Claim 1 including:

one of a stairway and an elevator extending between said storage level and said dwelling unit levels to provide an alternate pathway between each of said dwelling units and at least one of said storage level and a ground level for said building complex.

3. (original) The building complex set forth in Claim 2 including:

a service corridor on at least selected ones of said dwelling unit levels and at least one of a doorway and stairway between each dwelling unit on said selected ones of said dwelling unit levels for access between said dwelling units and said service corridor, respectively.

4. (original) The building complex set forth in Claim 3 wherein:

at least selected ones of said dwelling units include a service room accessible through said doorway between said dwelling units and said service corridor, said service room being provided with a second doorway which is lockable so that items to be delivered and picked up may be placed in said service room and accessed from said service corridor without allowing access from said service corridor to said dwelling unit.

5. (original) The building complex set forth in Claim 2 including:

a service elevator extending between at least selected ones of said dwelling unit levels to provide access to said service corridors on said selected dwelling unit levels.

6. (original) The building complex set forth in Claim 2 including:

at least two stairways extending between said dwelling unit levels and a street level of said building complex, said stairways being spaced apart from each other.

7. (original) The building complex set forth in Claim 1 wherein:

said storage level includes driveway means thereon and vehicle parking spaces accessible from said driveway means, and said storage level includes garages disposed interior of said driveway means from said parking spaces.

8. (original) The building complex set forth in Claim 7 wherein:

multiple garages are disposed back-to-back on said storage level.

9. (original) The building complex set forth in Claim 1 wherein:

said elevator opens to two dwelling units on at least one dwelling unit level of said building complex.

10. (original) The building complex set forth in Claim 1 including:

at least one elevator disposed so as to open into a corridor at said storage level.

11. (original) The building complex set forth in Claim 1 including:

at least one elevator foyer at said storage level and means forming a pedestrian doorway between said foyer and said storage level to provide pedestrian access between said elevator and said storage level.

12. (original) The building complex set forth in Claim 1 wherein:

said garages include a floor formed by one level, a ceiling formed by another level and spaced apart sidewalls, said floor, ceiling and sidewalls being formed as a concrete structure utilizing tunnel form construction.

13. (original) The building complex set forth in Claim 1 wherein:

at least one level of dwelling units includes multi-story dwelling units including a first story and a second story and a stairway interconnecting said stories.

14. (original) The building complex set forth in Claim 1 wherein:

said building complex comprises at least one module characterized by a first level of multiple dwelling units extending from one sidewall of said building complex to an opposite sidewall of said building complex;

a second level of said module including multiple dwelling units occupying at least part of said second level and living spaces for said dwelling units of said first level occupying at least a portion of said second level; and

a third level of said module including multiple dwelling units thereon.

15. (original) The building complex set forth in Claim 14 including:

a central corridor on said second level of said module and doorways opening into said corridor from each of said dwelling units on said first level, said second level and said third level.

16. (original) The building complex set forth in Claim 15 wherein:

said building complex includes plural elevators extending between said storage level and said dwelling unit levels, respectively, at least selected ones of said elevators opening to only selected ones of said dwelling units on selected ones of said dwelling unit levels.

17. (original) A multi-story, multiple dwelling unit building complex comprising:

at least one multi-story module comprising a first level including multiple dwelling units thereon and extending between one sidewall of said module and an opposite sidewall of said module;

a second level of said module including plural dwelling units thereon and occupying at least a portion of said second level;

a third level of said module including multiple dwelling units disposed thereon;

a corridor formed on said second level and respective pathways between said corridor and said first level, said second level and said third level to provide for access between said corridor and each of said dwelling units on each of said levels.

18. (original) The building complex set forth in Claim 17 wherein:

said second level includes at least one dwelling unit separate from dwelling units on said first level and said third level.

19. (original) The building complex set forth in Claim 17 including:

at least one stairway between said corridor and a ground level of said building complex.

20. (original) A multi-story, multiple dwelling unit building complex comprising:

at least one vehicle parking level including plural private garages formed thereon and disposed back to back, each of said garages having a doorway between said garage and an elevator entrance at said one vehicle parking level;

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Amendment Dated December 15, 2003
Reply to Office Action of June 13, 2003

multiple dwelling unit levels, each of said dwelling unit levels including at least one residential dwelling unit thereon; and

elevator means extending between said one vehicle parking level and opening directly into said at least one dwelling unit at selected ones of said dwelling unit levels whereby persons occupying dwelling units on any one of said selected dwelling unit levels are provided a pathway directly from a selected garage to that person's dwelling unit by way of said elevator means.

21. (original) The building complex set forth in Claim 20 wherein:

said multiple dwelling unit levels are disposed vertically spaced from each other and vertically spaced above multiple vehicle parking levels.

22. (original) The building complex set forth in Claim 21 wherein:

said elevator means extends between each of said dwelling units and each of said vehicle parking levels to provide pedestrian access to each of said dwelling unit levels and each of said vehicle parking levels.

23. (original) The building complex set forth in Claim 20 including:

a service corridor on at least a selected one of said dwelling unit levels and one of a doorway and stairway between each dwelling unit on said selected one of said dwelling unit levels and said corridor for pedestrian access between said dwelling units and said service corridor, respectively.

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Amendment Dated December 15, 2003
Reply to Office Action of June 13, 2003

24. (original) The building complex set forth in Claim 23 wherein:

at least selected ones of said dwelling units each include a service room accessible through said doorway between said dwelling units and said service corridor, respectively, said service room being provided with a second doorway which is lockable so that items to be delivered and picked up may be placed in said service room and accessed from said service corridor without allowing access from said service corridor to said dwelling unit.

25. (original) The building complex set forth in Claim 23 including:

a service elevator extending between at least selected ones of said dwelling unit levels to provide access to said service corridor on said selected dwelling unit levels, respectively.

26. (original) The building complex set forth in Claim 23 including:

at least one stairway extending between said dwelling unit levels and a street level of said building complex.

27. (original) The building complex set forth in Claim 20 including:

a pedestrian corridor interposed said back-to-back disposed garages.

28. (original) The building complex set forth in Claim 20 wherein:

said garages include a floor formed by one level, a ceiling formed by another level and spaced apart sidewalls, said floor, ceiling and sidewalls being formed as a concrete structure utilizing tunnel form construction.

Appl. No. 10/081,412
Amendment Dated December 15, 2003
Reply to Office Action of June 13, 2003

29. (original) The building complex set forth in Claim 20 including:

at least two elevators disposed so as to open to said vehicle parking level.

30. (original) The building complex set forth in Claim 20 wherein:

said elevator means opens to two dwelling units on at least one dwelling unit level of said building complex.

31. (original) The building complex set forth in Claim 20 wherein:

one dwelling unit level of said building complex includes a dwelling unit which includes a portion thereof which occupies at least part of a second dwelling unit level.

32. (original) The building complex set forth in Claim 31 including:

a stairway extending between said dwelling unit on said one dwelling unit level and said portion of said dwelling unit on said second dwelling unit level.

33. (original) The building complex set forth in Claim 32 including:

a corridor extending along said second dwelling unit level and a doorway between said corridor and said portion of said dwelling unit.

34. (original) The building complex set forth in Claim 33 including:

a stairway between a third dwelling unit level and said second dwelling unit level and opening to said corridor.

35. (original) The building complex set forth in Claim 20 wherein:

said building complex is configured in multiples of three story dwelling unit modules including plural dwelling units on each level of each module.

36. (original) The building complex set forth in Claim 20 including:

a central corridor extending between respective sets of said back-to-back garages and providing a pedestrian path between said elevator means and said garages, respectively.

37. (new) A multi-story, multiple dwelling unit building complex comprising:

at least one multi-story module comprising a first level including at least one dwelling unit thereon and extending between one sidewall of said module and an opposite sidewall of said module;

a second level of said module including at least one dwelling unit thereon and occupying a portion of said second level; and

a corridor formed on said second level and respective pathways between said corridor and said first level and said second level to provide for access between said corridor and each of said dwelling units on each of said levels.

38. (new) The building complex set forth in Claim 37 wherein:

said at least one dwelling unit on said first level includes a portion thereof on said second level.

39. (new) The building complex set forth in Claim 38 wherein:

said pathway between said at least one dwelling unit on said first level and said corridor includes a stairway between said first level and said second level within said at least one dwelling unit on said first level.

40. (new) The building complex set forth in Claim 39 wherein:

said module includes multiple dwelling units on said first level, each including a portion thereof on said second level and respective stairways within each of said multiple dwelling units between said first and second levels.

41. (new) The building complex set forth in Claim 37 wherein:

said module includes a third level including at least one dwelling unit thereon extending between said one sidewall and said opposite sidewall and a pathway between said at least one dwelling unit on said third level and said corridor.

42. (new) The building complex set forth in Claim 41 wherein:

said pathway between said at least one dwelling unit on said third level and said corridor comprise a stairway between said third level and said second level.

43. (new) The building complex set forth in Claim 42 wherein:

said module includes multiple dwelling units on said third level and stairways between each of said multiple dwelling units and said corridor.

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44. (new) The building complex set forth in Claim 37 including:

at least one stairway between said corridor and a ground level of said building complex.

45. (new) The building complex set forth in Claim 37 including:

at least one vehicle parking level including plural private garages formed thereon, each of said garages having a doorway between said garage and an elevator entrance at said vehicle parking level; and

elevator means extending between said vehicle parking level and opening directly into said at least one dwelling unit at each level whereby persons occupying said dwelling units are provided a pathway directly from a selected garage to that person's dwelling unit by way of said elevator means.

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REMARKS/ARGUMENTS

Responsive to the Office Action, Applicants submit herewith a Terminal Disclaimer including authorization to charge the required disclaimer fee to Deposit Account No. 07-0153.

Applicants also submit with this amendment a request for a three month extension of time to respond to the Office Action, together with authorization to charge the extension fee (\$475.00) to the above-identified Deposit Account.

The filing of a Terminal Disclaimer herewith is believed to overcome the double patenting rejection set forth in the Office Action with respect to Claims 1 through 36 and also with respect to new Claims 37 through 45.

Applicants submit with this amendment new Claims 37 through 45 which are believed to be necessary to fairly protect the instant invention. Claims 37 through 45 are believed to define patentably over the prior art of record in this application. Favorable consideration for allowance of new Claims 37 through 45 is respectfully solicited.

An early Notice of Allowance of Claims 1 through 45 is respectfully solicited.

Respectfully submitted,

Date: Dec. 15, 2003

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